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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,743	08/11/2008	Kevin Turnbull	1817-0173PUS1	1508
2292 7590 09/16/2010 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER MYERS, GLENN F				
ART UNIT		PAPER NUMBER		
3652				
NOTIFICATION DATE		DELIVERY MODE		
09/16/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/585,743

Applicant(s)

TURNBULL ET AL.

Examiner

GLENN MYERS

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 14-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/200)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date 1/17/07

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 1/17/07 is being considered by the examiner.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 14-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 14 recites the limitation "pair of side bars mounted at the ends of the crossbar and projecting forwardly therefrom" in lines 3-4 of the claim. It is not clear what direction forwardly is referring to. For examination purposes, "forwardly" is being interpreted as any direction.
5. Claim 27 recites the limitation "projecting forwardly therefrom" in Line 4 of the claim. It is not clear what direction forwardly is referring to. For examination purposes, "forwardly" is being interpreted as any direction.
6. Claim 34 recites the limitation "projecting forwardly therefrom" in Line 4 of the claim. It is not clear what direction forwardly is referring to. For examination purposes, "forwardly" is being interpreted as any direction.
7. The remaining claims are rejected because of dependency on rejected claims.

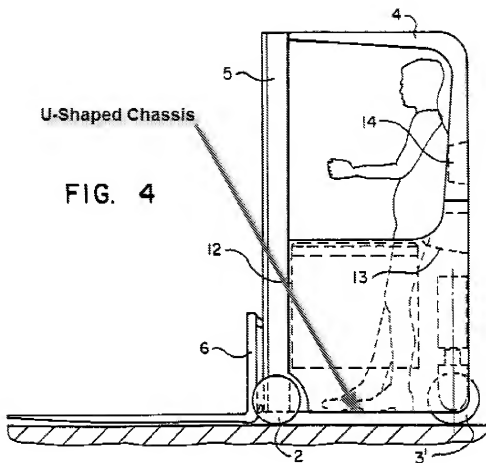
Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 14, 18, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunner et al 6,079,935 and in view of Weinert et al 5,096,363 .

10. In Re Claims 14, 18, 21, and 22 as best understood, Brunner teaches a forklift truck for mounting on the rear of a carrying vehicle, the forklift truck comprising a u-shaped chassis having a crossbar and pair of side bars mounted at the ends of the crossbar and projecting forwardly therefrom (See Fig. 4 below), a wheel (Fig. 4, 2) located adjacent the front of each of the sidebars, a steerable rear wheel (Fig. 4, 3') located centrally on the crossbar, a driver's station (Fig. 5, area where feet are shown) positioned to one side of the chassis and a motive power unit (Fig. 5, Battery Compartment 12) positioned on the opposite side of the chassis, the chassis mounting a lifting member carrying forks (Fig. 4, 6),



11. Brunner does not teach a lifting member being connected to the forks by way of a side shift mechanism comprising: a fixed carriage and a movable carriage slidably mounted on the fixed carriage and means to shift the movable carriage relative the fixed carriage from a central position to positions laterally extending therefrom on either side of the fixed carriage, the means to shift the movable carriage laterally relative the fixed carriage further comprises a pair of fluid actuated rams each having a cylinder, a piston and an elongate piston rod connected at one end to the piston, the cylinders of the pair of fluid actuated rams being connected together side by side, the free end of one of the

piston rods being connected to the fixed carriage and the free end of the other piston rod being connected to the movable carriage.

12. However, Weinert teaches a lifting member (Fig. 1, 10) being connected to forks (Fig. 3, 54b, 42b, 48b, 62b) by way of a side shift mechanism comprising: a fixed carriage (Fig. 2, Frame 18) and a movable carriage (Fig. 3, 54) slidably mounted on the fixed carriage and means to shift the movable carriage (Fig. 3, 64) relative the fixed carriage from a central position (Fig. 2) to positions laterally extending therefrom on either side of the fixed carriage (Fig. 3), the means to shift the movable carriage laterally relative the fixed carriage further comprises a pair of fluid actuated rams each having a cylinder, a piston and an elongate piston rod connected at one end to the piston, (Fig. 3, 20 and 64) the cylinders of the pair of fluid actuated rams being connected together side by side, the free end of one of the piston rods being connected to the fixed carriage (Fig. 3, at 22) and the free end of the other piston rod being connected to the movable carriage (Fig. 2, at 54c); and

each fluid acting ram is a hydraulic ram (Fig. 3, 20 and 64); and

there is provided a means to operate the fluid actuated rams independently of each other; (Fig. 3, 20 and 64) and

there are provided friction reducing members positioned intermediate the movable carriage and the fixed carriage; (Column 3, Lines 47-49)

13. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a fixed carriage and a slidably mounted movable carriage with the forklift truck of Brunner as taught by Weinert in order to move the forks.

14. Claims 23 and 25 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Brunner/Weinert.

15. In Re Claim 23, Brunner/Weinert discloses the claimed invention except for friction reducing members being any one of a brass pad, a nylon pad or roller bearings. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a brass or nylon pad as the bushing of Brunner/Weinert, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Please note that in the instant application, applicant has not disclosed any criticality for the claimed limitations.

16. In Re Claim 25, Brunner/Weinert discloses a movable carriage movable to a central position using one fluid actuated ram and another fluid actuated ram as discussed above. However, Brunner/Weinert does not expressly disclose that when the movable carriage is in the central position, one of the fluid actuated rams is in a fully extended configuration while the other of the fluid actuated rams is in a fully retracted position.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have one of the fluid actuated rams in the fully extended configuration and the other in the fully retracted configuration when the movable carriage is at the central position because Applicant has not disclosed that having one of the fluid actuated rams in the fully extended configuration and the

other in the fully retracted configuration when the movable carriage is at the central position provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the fluid actuated rams of Weinert because they are able to move the movable carriage to the central position.

Therefore, it would have been an obvious matter of design choice to modify Brunner/Weinert to obtain the invention as specified in the claim 25.

17. Claim 26 is rejected under 35 U.S.C. § 103 (a) as being unpatentable over Brunner/Weinert.

18. In Re Claim 26, Brunner/Weinert discloses a movable carriage movable to a central position using one fluid actuated ram and another fluid actuated ram as discussed above. However, Brunner/Weinert does not expressly disclose that when the movable carriage is in the central position, both of the fluid actuated rams are in a half extended configuration with the pistons at half stroke in the cylinders.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the fluid actuated rams in a half extended configuration with the pistons at half stroke in the cylinders when the movable carriage is at the central position because Applicant has not disclosed that having the fluid actuated rams in a half extended configuration with the pistons at half stroke in the cylinders when the movable carriage is at the central position provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to

perform equally well with the fluid actuated rams of Weinert because they are able to move the movable carriage to the central position.

Therefore, it would have been an obvious matter of design choice to modify Brunner/Weinert to obtain the invention as specified in the claim 26.

19. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brunner/Weinert as applied to claim 14 above, and further in view of Schuster 4,095,714.

20. In Re Claim 15, Brunner/Weinert teaches the forklift truck of Claim 14 as discussed above.

21. Brunner/Weinert does not teach forks mounted on a framework, the framework being mounted for pivotal movement about a horizontal axis parallel to the horizontal longitudinal axis of the forklift truck, the forks being movable under the operation of a rotating ram.

22. However, Schuster teaches forks (Fig. 1, 53) mounted on a framework (Fig. 1, Tilt Body), the framework being mounted for pivotal movement (Fig. 1) about a horizontal axis parallel (Fig. 2, Axis through spindle 36) to the horizontal longitudinal axis of the forklift truck, the forks being movable under the operation of a rotating ram (Fig. 4, 44).

23. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a framework mounted for pivotal movement with the forklift truck of Brunner/Weinert as taught by Schuster in order to move the forks.

24. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brunner/Weinert as applied to claim 14 above, and further in view of Sewell 4,615,533.

25. In Re Claim 16, Brunner/Weinert teaches the forklift truck of Claim 14 as discussed above.

26. Brunner/Weinert does not teach a single actuated ram and there is further provided a return biasing means urging each of the single acting rams to a fully contracted configuration.

27. However, Sewell teaches a fluid actuated ram being a single actuated ram and further providing a return biasing means urging the ram to a return position. (Column 6, Lines 52-58)

28. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a single acting ram and a return biasing means with the forklift truck of Brunner/Weinert as taught by Sewell in order to reset the ram.

29. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brunner/Weinert as applied to claim 14 above, and further in view of Meitl 3,999,674.

30. In Re Claim 17, Brunner/Weinert teaches the forklift truck of Claim 14 as discussed above.

31. Brunner/Weinert does not teach that each fluid acting ram is a double acting ram.

32. However, Meitl teaches a fluid acting ram being a double acting ram. (Column 3, Lines 7-10)

33. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a double acting ram with the forklift truck of Brunner/Weinert as taught by Meitl in order to move the ram.

34. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brunner/Weinert as applied to claim 14 above, and further in view of Kuwayama et al 5,277,268.

35. In Re Claim 19, Brunner/Weinert teaches the forklift truck of Claim 14 as discussed above.

36. Brunner/Weinert does not teach that each fluid acting ram is a pneumatic ram.

37. However, Kuwayama teaches a fluid acting ram being a pneumatic ram (Claim 9)

38. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a pneumatic ram with the forklift truck of Brunner/Weinert as taught by Kuwayama in order to move the ram.

39. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brunner/Weinert as applied to claim 14 above, and further in view of Field, Jr. 5,088,880.

40. In Re Claim 20, Brunner/Weinert teaches the forklift truck of Claim 14 as discussed above.

41. Brunner/Weinert does not teach that there is provided means to operate the fluid actuated rams in synchronization with each other.

42. However, Field, Jr. teaches a means to operate the fluid actuated rams in synchronization with each other. (Column 5, Lines 28-36)

43. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a means to operate the fluid actuated rams in synchronization with each other with the forklift truck of Brunner/Weinert as taught by Field, Jr. in order to maneuver a load.

44. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brunner/Weinert as applied to claim 14 above, and further in view of Avitan et al 5,890,563.

45. In Re Claim 24, Brunner/Weinert teaches the forklift truck of Claim 14 as discussed above.

46. Brunner/Weinert does not teach an energy chain connected to a fluid line feed for each of the fluid actuated rams.

47. However, Avitan teaches an energy chain (Fig. 3, 82) connected to a fluid line feed (Fig. 3, 80) for a fluid actuated ram (Fig. 3, 62).

48. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add an energy chain connected to the fluid feed line of the forklift truck of Brunner/Weinert as taught by Avitan in order to control the fluid line.

49. Claims 27 and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunner and in view of Weinert and in view of Schuster.

50. In Re Claim 27, as best understood, the combination rejection of Claims 14 and 15 apply to the claim.

51. In Re Claim 31, the combination rejection of Claim 14, 21 and 27 applies to the Claim.

52. In Re Claim 32, the combination rejection of Claims 14, 25, and 27 applies to the Claim.

53. In Re Claim 33, the combination rejection of Claims 14, 26, and 27 applies to the claim.

54. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brunner/Weinert/Schuster as applied to Claim 27 above, and further in view of Sewell.

55. In Re Claim 28, the combination rejection of Claims 14, 16, and 27 apply to the claim.

56. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brunner/Weinert/Schuster as applied to Claim 27 above, and further in view of Meitl.

57. In Re Claim 29, the combination rejection of Claims 14, 17, and 27 apply to the claim.

58. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brunner/Weinert/Schuster as applied to Claim 27 above, and further in view of Field, Jr.

59. In Re Claim 30, the combination rejection of Claims 14, 20, and 27 apply to the claim.

60. Claims 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunner and in view of Weinert and in view of Field, Jr.

61. In Re Claim 34, as best understood, the combination rejection of Claims 14 and 20 applies to the claim.

62. In Re Claim 35, the combination rejection of Claims 14, 25, and 34 applies to the claim.

63. In Re Claim 36, the combination rejection of Claim 14, 26, and 34 applies to the claim.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Braud 5,813,821 discloses a forklift. House 5,336,039 discloses lifting forks. Chase et al 5,139,385 discloses lifting forks. Berge 3,184,088 discloses a lift truck. Henshaw et al 6,189,964 discloses a lift truck. Johnson 2,349,352 discloses a forklift.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GLENN MYERS whose telephone number is (571)270-1160. The examiner can normally be reached on Monday - Friday/7:30AM-5:00PM - 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. M./
Examiner, Art Unit 3652

/Saúl J. Rodríguez/
Supervisory Patent Examiner, Art
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